

**REMARKS**

Claims 1-124 are pending in the application.

Claims 1-124 stand rejected.

Claims 1, 9, 10, 32, 63, and 94 have been amended. Support for the amendment to these claims can be found, at least, on p. 9, lines 21-31, and p. 11, lines 13-18 and 24-33 of the specification. No new matter has been added.

**Rejection of Claims under 35 U.S.C. §112**

In the Office Action mailed May 5, 2006 (hereinafter referred to as the “Office Action”), claims 9-14 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, claims 9 and 10 (from which claims 11-14 depend) were rejected as having insufficient antecedent basis for the term “plurality of buffers.” Office Action, p. 2. Claims 9 and 10 have been amended to recite “plurality of data buffers.” Accordingly, Applicant asserts that this rejection has been overcome.

**Rejection of Claims under 35 U.S.C. §103**

Claims 1-10, 15-41, 46-72, 77-103, and 108-124 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Cohen et al, U.S. Patent No. 6,389,462 (hereinafter referred to as “Cohen”) in view of Geagan, III et al, U.S. Patent No. 6,735,634 (hereinafter referred to as “Geagan”).

With respect to amended claim 1, the cited art fails to teach or suggest “determining need for data transfer between said second and said third network elements by monitoring an amount of space available in at least one of a plurality of data buffers.” For at least this reason, claim 1 is patentable over the cited art.

In the rejection of claim 27, the Examiner relies upon Cohen to teach a similar feature (“monitoring space in said transmit buffer”). Office Action, p. 6. The cited portions of Cohen describe determining whether a requested object is stored in a cache; if so, the request can be satisfied without needing to establish a TCP connection to a server to obtain the object. *See e.g.*

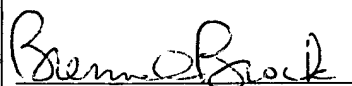
Cohen, col. 7, lines 17-21 (cited by the Examiner in the rejection of claim 27). Examining the contents of a cache simply determines whether a particular object has been stored in a cache; it has nothing to do with determining how much space is currently available. Furthermore, there is no teaching or suggestion that the cache in Cohen is implemented as a buffer. Thus, Cohen examines the contents of a cache, not the amount of space available in a buffer. None of the cited portions of Cohen, both alone and in combination with the cited portions of Geagan, teach or suggest monitoring the amount of space available in a buffer. For at least this reason, amended claim 1 is patentable over the cited art, as are dependent claims 2-10 and 15-31. Independent claims 32-41, 46-72, 77-103, and 108-124 are patentable over the cited art for similar reasons.

Claims 11, 13, 42, 44, 73, 75, 104, and 106 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Cohen, in view of Geagan, and in further view of Riddle, U.S. Patent No. 5,920,732 (Riddle). Claims 12, 14, 43, 45, 74, 76, 105, and 107 stand rejected under 35 U.S.C. §103(a), as being unpatentable over Cohen, in view of Geagan, and in further view of Radko, U.S. Patent No. 5,687,392 (Radko). These claims are patentable over the cited art for reasons similar to those presented above with respect to claim 1.

**CONCLUSION**

In view of the amendments and remarks set forth herein, the application is believed to be in condition for allowance and a notice to that effect is solicited. Nonetheless, should any issues remain that might be subject to resolution through a telephone interview, the Examiner is invited to telephone the undersigned at 512-439-5087.

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 5, 2006.

  
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9/5/2006  
Date of Signature

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